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EXAMINER

POLLACK, MELVIN H

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 28 March 2008 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., various interpretations of phrases) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
3. It is the job of the examiner to define the claims according to their broadest reasonable interpretation, and to avoid reading limitations from the specification or other claim trees. Many of the applicant's arguments depends on narrower interpretations of the limitations, without a subsequent definition in the specification. Applicant may fix these issues, i.e. by amending the claims.
4. For example, Applicant fails to expressly define the term "feed data transmission," even when claiming that there is a lack thereof (remarks, P. 8). The examiner defines the term as generic data, potentially in transmission, call, or stream form. If applicant wishes a more specific functional meaning, there needs to be an amendment and greater clarity in the remarks.
5. Likewise, Applicant seems to be trying to narrow the interpretation of "determining eligibility for transmission based upon an amount of elapsed time since a successful

transmission" beyond scheduling and analysis (abstract). Such a limitation may be considered inherent in time division multiplexing (TDMA), wherein scheduling is dependant on ensuring that two transmissions don't occur at once, and in determining whether the previous transmission is successful. Complicating the narrowing of the claims is that the applicant is silent as to its eventual purpose, let alone as to the particulars of this determination.

6. Cain teaches that "the controller 18 includes a semi-permanent time slot unit 18a for scheduling a respective semi-permanent time slot for each time frame for establishing a communication link with each neighboring mobile node while leaving at least one available time slot in each time frame. An available time slot unit 18b schedules the at least one available time slot to also serve the communication link with a neighboring mobile node based upon link communications demand.... Parallel operations can reduce time slot allocation delay.

Accordingly, the semi-permanent time slot unit 18a may initiate one or more semi-permanent time slot requests for respective time frames to establish the communication link... (col. 5, lines 10-25)." Cain goes on to discuss determining success of transmission (col. 5, lines 45-55) and the allocation of time slots (col. 5, line 55 – col. 6, line 30). The choice of a particular time slot is functionally equivalent to a delay in general, and a transmission only if eligible determination in particular. This includes making a retransmission eligible if and only if the first transmission fails (col. 19, lines 25-45; col. 20, lines 50-60).

7. The examiner treats the eligibility based on successful transmission limitations of each independent claim similarly for this action only, and solely for the purposes of efficiency. However, it is clear that claim 1 is narrower than claim 14, and the examiner reserves the right to reject independent claims differently based on these differences.

8. Because of this slight change in structure, one must consider Cain's functional equivalents rather than their precise and explicit language. For example, in regards to timestamps and copies of data (P. 9, in ref to claim 9) identifiers of assigned slots and of priority act as timestamps and as system eligibility system data. The claims must be interpreted in this light.

9. As for claims 11, 13, 22, 23, 25, and 26 (P. 9), one must again be careful not to read the limitations too narrowly or to ignore functional equivalencies. When calculating delay in a time slot environment, the calculations are functionally equivalent to calculating "data credits" that adjust an amount of feed data eligible. That is because such functionality determines not only when to transmit, but how many slots are assigned to reception at one time. Likewise, the maximal rate envelope is a functional equivalent because it limits the earliest time of eligibility.

10. As for claim 16, applicant seems to be using a narrow interpretation for "increased bandwidth usage by said high-priority data" reducing "bandwidth available for future standard (low-priority) transmissions." Not only is this inherent, but it is the side effect of any QoS system that considers priority or service-level agreements. If you give bandwidth to a high-priority message, there is less bandwidth for low-priority messages, even when there is a temporal issue (the claim does not specify when the high-priority data transmission occurs).

11. Finally, the applicant seems to be reading narrowly the issue of successful analysis (P. 10). As shown above, one must broadly interpret the usage of updating timestamps to include tracking the proposed time slots of a message.

12. Therefore, the rejections are maintained for the reasons above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. H. P./
Examiner, Art Unit 2145
29 April 2008